

AT AN ADJOURNED MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA HELD ON THE 27<sup>TH</sup> DAY OF MARCH 2006, AT 6:00 P.M. IN THE BOARD CHAMBERS, MONTGOMERY COUNTY GOVERNMENT CENTER, 755 ROANOKE STREET, CHRISTIANSBURG, VIRGINIA:

PRESENT:	Steve L. Spradlin	-Chair
	Mary W. Biggs	-Vice Chair
	Gary D. Creed	-Supervisors
	Doug Marrs	
	John A. Muffo	
	Annette S. Perkins	
	James D. Politis	
	B. Clayton Goodman, III	-County Administrator
	L. Carol Edmonds	-Assistant County Administrator
	Martin M. McMahon	-County Attorney
	T.C. Powers	-Planning & GIS Director
	Robert C. Parker	-Public Information Officer
	Steve Sandy	-Zoning Administrator
	Marc McGruder	-Budget Manager
	Vickie L. Swinney	-Secretary, Board of Supervisors

### **CALL TO ORDER**

The Chair called the meeting to order.

### **INTO CLOSED MEETING**

On a motion by James D. Politis, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

Section 2.2-3711      (3)      Discussion or Consideration of the Acquisition of Real Property For a Public Purpose, or of the Disposition of Publicly Held Real Property, Where Discussion in an Open Meeting Would Adversely Affect the Bargaining Position or Negotiation Strategy of the Public Body

1. Bethel Elementary School Property

- (1) Discussion, Consideration or Interviews of Prospective Candidates for Employment; Assignment, Appointment, Promotion, Performance, Demotion, Salaries, Disciplining or Resignation of Specific Officers, Appointees or Employees of Any Public Body

1. Adjustment & Appeals Board
2. CPMT
3. Economic Development Commission
4. Industrial Development Authority
5. New River Valley Development Corporation
6. Parks & Recreation Commission

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
Gary D. Creed	None
Doug Marrs	
Mary W. Biggs	
Annette S. Perkins	
James D. Politis	
John A. Muffo	
Steve L. Spradlin	

### **OUT OF CLOSED MEETING**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
Doug Marrs	None
Mary W. Biggs	
Annette S. Perkins	
James D. Politis	
John A. Muffo	
Gary D. Creed	
Steve L. Spradlin	

## **CERTIFICATION OF CLOSED MEETING**

On a motion by James D. Politis, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion conveying the closed meeting were heard, discussed or considered by the Board.

### **VOTE**

#### **AYES**

Mary W. Biggs  
Annette S. Perkins  
James D. Politis  
John A. Muffo  
Gary D. Creed  
Doug Marrs  
Steve L. Spradlin

#### **NAYS**

None

#### **ABSENT DURING VOTE**

None

#### **ABSENT DURING MEETING**

None

## **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

## **PUBLIC HEARINGS**

### **Rezoning Request – Warm Hearth, Inc. (Agent: Anderson & Associates, Inc.)**

**Warm Hearth, Inc. (Agent: Anderson & Associates, Inc.) requests to rezone 6.036 acres from Agriculture (A-1) to Residential Multi-Family (RM-1), to rezone 6.52 acres from General Business (GB) to Residential Multi-Family (RM-1), with possible proffered conditions, to allow for the development of a senior living facility to include up to ninety-one (91) additional residential dwellings.** The property is located on Warm Hearth Drive, west of the intersection of Mabry Lane and Warm Hearth Drive, and is identified as Tax Parcel No. 54-A-22 & 53-A-73 (Acct ID # 034309, 020410 ) in the Prices Fork Magisterial District (District E). The property currently lies in an area designated as Urban Expansion in the Comprehensive Plan.

### **Special Use Permit – Amendment – Warm Hearth, Inc. (Agent: Anderson & Associates, Inc.)**

**Warm Hearth, Inc. (Agent: Anderson & Associates, Inc.) requests to amend a special use permit dated February 13, 1984 allowing for the development of a senior living facility to include up to ninety-one (91) additional residential units by adding 6.036 and 6.52 acres and by amending condition #2 to require development of the site to be in substantial accordance with the plan entitled, “Overall Site Layout”, prepared by Anderson & Associates (Document No. 24284-000) and dated December 1, 2005, last revised February 15, 2006.** The property is located on Warm Hearth Drive, west of the intersection of Mabry Lane and Warm Hearth Drive, and is identified as Tax Parcel No. 54-A-22 & 53-A-73 (Acct ID # 034309, 020410) in the Prices Fork Magisterial District (District E). The property currently lies in an area designated as Urban Expansion in the Comprehensive Plan.

The Zoning Administrator provided a summary on both Warm Hearth, Inc requests. The applicant is requesting a rezoning of 6.52 acres and 6.036 acres to allow for the development of a senior living facility, Woods Edge, and an amendment to a special use permit dated February 13, 1984.

At their March 8, 2006 meeting, the Planning Commission recommended approval to rezone 6.036 acres from Agriculture (A-1) to Residential Multi-Family (RM-1), to rezone 6.52 acres from General Business (GB) to Residential Multi-Family (RM-1); and recommended approval of the amendment to condition #2 of the special use permit dated February 13, 1984 to allow a senior living facility.

Tom Cline, Anderson and Associates, agent for the applicant, was available for questions. The proposed development, Woods Edge, will be an aged restricted community consisting of 91 single-family residences. The homes will be a mix of single-family homes and duplexes, offering single level, maintenance free living. A village center will also be constructed to contain a pool, fitness facility, meeting rooms, activity spaces, and other amenities. Mr. Cline also provided additional information on the infrastructure.

Fern Moschella, President/CEO, Warm Hearth Villages, spoke in support of the Woods Edge development. Ms. Moschella believes Warm Hearth has satisfactorily addressed every concern that has been expressed. Woods Edge is a project that will be an asset to the community by providing needed senior housing. It will also provide economic growth to the County by providing construction jobs for the next 3-5 years and providing an estimated \$200,000 in real estate tax revenue annually. Ms. Moschella thanked the Board and asked them to consider approving Warm Hearth's request.

Tom Elmore, Owner of Giving Tree Bed & Breakfast, spoke in support of the proposed development, Woods Edge. Mr. Elmore welcomes the addition of the retirement homes and village center to the community. He is pleased with the design and layout of the proposed development. Mr. Elmore did suggest that the Board consider installing stop signs at the intersection of Warm Hearth Drive and Mabry Lane, which also intersects his driveway. This would allow for a three-way stop and provide benefits to not only the motorists, but also to the Huckleberry Trail users. Mr. Elmore thanked the Board for their time and encouraged the Board to fully support the Woods Edge and Warm Hearth project.

Stan Hixon, CEO, Montgomery Regional Hospital, spoke in support of the proposed Woods Edge development. Montgomery Regional Hospital has a great relationship with Warm Hearth by helping meet the health care needs of their community and wishes to continue to do so. Montgomery Regional Hospital supports this development and asks the Board of Supervisors to do the same.

William Price, whoserved on the Warm Hearth Board for several years, spoke in support of the proposed project. Warm Hearth has played an important role in the community by providing quality care for our senior citizens. He sees continued success for Warm Hearth. Mr. Price hopes the Board will support this project.

There being no further speakers, both public hearings were closed.

**Rezoning Request – Huckleberry Ridge, LLC and Henry Heth Estates (Agent: Gay & Neel, Inc.)**

**Huckleberry Ridge, LLC and Henry Heth Estates (Agent: Gay & Neel, Inc.) request to rezone approximately 63 acres from Agriculture (A-1) to Planned Unit Development Residential (PUD-Res), with possible proffered conditions, to allow the development of 245 residential dwellings and limited commercial uses.** The property is located southeast of the intersection of Merrimac Road (SR657) and Hightop Road (SR 808) and is identified as Tax Parcel Nos. 66-A-91, 92 & 67-A-229 (Acct # 010584, 010585, & 035616) in the Prices Fork Magisterial District (District E). The property currently lies in an area designated as Urban Expansion in the Comprehensive Plan.

The Zoning Administrator provided a summary on the proposed rezoning. The applicant is requesting a rezoning of 63 acres from Agriculture to Planned Unit Residential located southeast of the Intersection of Merrimac Road and Hightop Road. The rezoning would allow for the development of 245 residential units. This proposed development would generate impacts in several areas including, traffic, water and sewer, schools, and stormwater. The applicant has volunteered 18 proffered conditions to help alleviate some of the impacts. The eighteenth proffer was submitted today prior to the Board meeting to address the Planning Commission's and public's concern about the request for public access across the Huckleberry Trail. The Zoning Administrator highlighted several of the proffers, such as the development will be phased in to help the overcrowding of schools. The applicant has proffered to contribute up to \$45,000 for the necessary improvements to the existing one-lane bridge on Hightop Road. The applicant has also proffered to dedicate land to the County for a public park or for widening Hightop Road.

At their March 15, 2006 meeting, the Planning Commission recommended denial of the rezoning request due to the following reasons:

1. The at-grade crossing of the Huckleberry Trail.
2. The additional proffers orally presented at the meeting has not been submitted in writing. The applicant stated that the following proffers would be added to the proffers dated March 15, 2006:
  - a. The Merrimac Road entrance will be installed prior to the 60<sup>th</sup> certificate of occupancy and there will be a fifty (50) unit per year phasing with a full build-out in five(5) years.
  - b. Prior to beginning the construction, signage will be installed to prohibit construction traffic from utilizing the Hightop Road entrance.

Sean Beliveau, applicant, made a presentation on the Huckleberry Ridge LLC's request. Mr. Beliveau addressed several concerns regarding the proposed development. He provided an overview on the development, which will include single-family detached homes; single-family attached homes (townhomes); multi-family homes (apartment/condo housing); community village center; and live/work or mixed-use structures in the Village Center. He addressed concerns that the Planning Commission and public expressed regarding the request for a 50 ft. right-of-way access across the Huckleberry Trail. A proffer was submitted prior to the meeting that that Huckleberry Ridge, LLC shall provide for a grade separated crossing of the Huckleberry Trail and would be constructed with a box culvert or other structure with approximate dimensions of 12 ft wide x 10 ft tall x 35 ft long. The Huckleberry Ridge, LLC will work with Montgomery County Parks and Recreation and The Friends of the Huckleberry to design native landscape and planting matrix for the entrance prior to the submission of site plans for approval. They also plan to provide more of a buffer along the Huckleberry Trail and the proposed development to help lessen the visual impact and to help retain the character of the trail. Mr. Beliveau believes this project is unlike any other in Montgomery County, as it will be an urban-traditional neighborhood, and asked the Board for its support.

Kevin Conner, Gay and Neel, agent for the applicant, made a presentation on the infrastructure needs in the proposed development. Mr. Conner indicated that water and sewer is adequate. The proposed development is projected to generate \$1.25 million for the Public Service Authority in water and sewer fees. He also provided traffic analysis for Hightop Road and Merrimac Road.

Ruth Dowdy addressed concerns with increased traffic the proposed development will generate on Hightop Road and Merrimac Road. She also expressed concerns with overcrowding of the school system. Ms. Dowdy is not opposed to growth but believes this development is too large for the Merrimac community.

W.P. Turpin stated he was not opposed to the proposed development, if it was developed right. The County will need to ensure everything is done properly throughout the construction to make it attractive to the community. Mr. Turpin indicated change is inevitable and this parcel of land probably will be rezoned in the future. He urged the Board to carefully consider the development and make the right decision.

John Early expressed concerns with the increased traffic on the already heavily traveled roads. He also expressed concerns with the impact to the water and sewer systems.

Lindsey West is an advocate for the integrity of the Huckleberry Trail. She expressed concern with the vehicle access across the trail but is glad to see that the developer submitted a proffer to construct a box culvert and increased buffer to protect the trail. Ms. West expressed concern about the impact to the trail from the construction of the development. She also urged the Board to preserve the rural character of the trail.

Heather Schaerer is worried about concerns with the existing flooding on Hightop Road and the potential increase in flooding due to the construction. Another problem is construction vehicles using Hightop Road as it is a curvy, highly traveled road. There are no plans to upgrade Hightop Road in the County's Six Year Secondary Road Improvement Plan and she believes the road cannot handle increased traffic.

Fred Mignone believes this will have a negative impact on the Huckleberry Trail. Mr. Mignone believes there should be an increase in the buffer zone along the trail and there should be no commercial use of the trail.

Jerome Jacobson also believes this will have a negative impact. The section of the trail that borders the proposed rezoning is the most rural part of the trail and more scenic. There have been loss of trees due to the sewer construction and he would hate to see more destruction. Mr. Jacobson believes the proposed development is in the wrong place, without enough infrastructure to support the development.

Dean Bork spoke in support of the rezoning. He is a frequent user of the Huckleberry Trail and urged the Board to consider protecting the character of the trail. He believes the development is consistent with the County's comprehensive plan with the community planning. It is a positive alternative from residential sprawl.

Bill Ellenbogen spoke on behalf of The Friends of the Huckleberry, who neither supports nor opposes the proposed rezoning. The Friends of the Huckleberry support the placement of a box culvert on the Huckleberry Trail, which will ensure the safety of trail users. He believes that the trail would grow back the natural vegetation after construction as it did when the trail was constructed. He indicated most of the development is away from the trail and the developers have proffered a buffer zone. Mr. Ellenbogen also discussed the potential trail extension of the Huckleberry Trail with the National Forest and the NRV Nature Trail. This will require right-of-way from landowners along the proposed extension. If landowners see the trail as a reason for keeping them from developing their land in the future, they may not agree to any right-of-way. Mr. Ellenbogen asked the Board to keep this in mind when making a decision on the proposed rezoning.

Elizabeth Ritchey Ms. Ritchey submitted a petition with 24 signatures of citizens who use the Huckleberry Trail for biking and hiking and are concerned about the impact the development will have on the trail. The section that will be most affected is one of the most unique and beautiful sections of the trail. She is glad to see the developer submit proffers for the additional buffer zone and box culvert. Ms. Ritchey requested the Board to consider using the \$10,000 proffered by the developer to be used on the Coal Miners Heritage Park. Long range plans for the Coal Miners Park call for some development such as picnic tables, shelters, washrooms, etc., and since the park is close to the proposed subdivision, there would be no need to duplicate that on the Huckleberry Ridge property.

There being no further speakers, the public hearing on the proposed rezoning was closed.

Following the public hearing on the proposed rezoning, there was discussion by the Board members. At this time, Chair Spradlin submitted for the record, a petition with 279 signatures in opposition to the proposed rezoning.

Chair Spradlin commented on the high density of the proposed development of 245 units and how it will affect Hightop Road and Merrimac Road. He does not believe these roads would be able to handle the amount of traffic this development would bring. Chair Spradlin also brought to the attention of the Board members a memo from the David Moore, Planning Commission Chair, requesting that the Board of Supervisors refer this rezoning issue back to the Planning Commission for further consideration due to the updated proffer statements from Huckleberry Ridge. Since the Planning Commission's recommendation, the applicant has proffered to build a grade separated crossing over the Huckleberry Trail and this was the main issue dividing the Planning Commission members. Mr. Moore would like to have the opportunity for the Planning Commission to have another site meeting and make a recommendation on the updated proffer statement.

Both Chair Spradlin and Supervisor Muffo believe that nothing new can be accomplished by referring this request back to the Planning Commission.



Frank Lau and Malvin “Pug” Wells, Planning Commission members, were given the opportunity to speak and both agreed that the Planning Commission has examined the request and offered their recommendation and it is up to the Board of Supervisors to examine new information submitted. Mr. Wells also commented that the new proffer to construct a crossing over the Huckleberry Trail addressed his concerns.

**50ft Right-of-Way Easement – Huckleberry Ridge, LLC and Henry Heth Estates (Agent: Gay & Neel, Inc.)**

**Huckleberry Ridge, LLC and Henry Heth Estate (Agent: Gay & Neel, Inc.) request a fifty (50) foot right of way easement across the Huckleberry Trail** to provide vehicular access from Hightop Road (SR 808) at Martin Drive to the proposed Huckleberry Ridge planned residential community as generally depicted on the conceptual layout prepared by Gay and Neel, Inc dated 12/1/05. The property is identified as tax map nos. 66-A-91, 92 & 67-A-229 (Acct # 010584, 010585, & 035616).

The Zoning Administrator provided a summary on the applicant’s request for a 50 foot right-of-way easement across the Huckleberry Trail. This easement will be necessary to provide vehicular access from Hightop Road to the proposed development. The Huckleberry Trail runs through the northern portion of the property and a main entrance is proposed to cross the Trail off Hightop Road. The applicant has proffered to provide for a grade separated crossing over the Huckleberry Trail and to be constructed with a box culvert or other structure.

John Early cited concerns with safety issues on Hightop Road. This is a dangerous road with a major bus stop near the Huckleberry Trail.

John Scarpaci addressed concerns with increased traffic on the existing roads and overcrowding of schools. Mr. Scarpaci also noted concerns with the construction of a box culvert over the trail and how it would taint the characteristic of the trail. He suggested that the developers consider a second access road off Merrimac instead of an access off Hightop Road.

Suzie Leslie reported there are different users of the Trail, from high-end users to family outings. She is concerned about the impacts to the trail from the development and access road over the Huckleberry Trail. She also stated amenities along the trail would be nice but should be at the Coal Miners Heritage Park, not at the Huckleberry Ridge Subdivision.

James Roswar, an avid cyclist, is worried about the impact the proposed development would have on the trail and the future extension of Huckleberry Trail to the New River Nature Trail.

T.J. Maloney spoke in opposition to the proposed development. Ms. Martin is against the idea of constructing a community within an existing community, which is the Merrimac community. She does not know how the proposed site plan will work if you have homes valued at \$400,000 near homes valued at \$100,000, as well as nearby apartments.

There being no further speakers, the public hearing was closed.

## **PUBLIC ADDRESS**

Karen Eggers, Linda Naughton, Noel Bissell, and Julie Snyder spoke in support for school capital needs and a new Auburn Middle School. They urged the Board to provide funding for new school facilities now in order to provide the children with the best education possible. They asked the Board not to fail the children and raise the real estate tax the maximum amount possible.

Mike Hyer, Dawn Elvinger, Clay Nichols, and Andy Colhill addressed the Board about the Special Use Permit request to the Town of Blacksburg by the Montgomery County Schools for a new football stadium near the new Blacksburg Middle School on Prices Fork Road and potential future Blacksburg High School. They expressed concern on how the School Board is selling the project and the urgency in pushing this project through without any consideration of other options. They addressed issues of placing three schools at one location, especially an elementary school near a high school. They requested the Board to withdraw the special use permit until other options are considered, such as renovating the current stadium or finding a more suitable site.

Scott Nelson, Rosemary Sowden, and David Bernard urged the Board to adopt a resolution opposing the proposed sale of National Forest land in Montgomery County. The Bush Administration is proposing to sell 300,000 acres of National Forest Land, with 5,717 acres in Virginia and 390 acres in Montgomery County. The money from the sale of the land will probably not stay in Virginia but be diverted to other states where there is decreased timber sales.

Margaret Merrill, Kelly Breenan, Arnold Lafon, and Nick Rose thanked the Board for their past support of the Riner Cannery and asked for continued support. The Riner Cannery Working Group has been working hard the past year to assure the continuing operation of the cannery and exploring future possibilities in order to make the cannery a self-supporting operation.

## **DELEGATION**

### **Commonwealth's Attorney**

Joey Showalter, Commonwealth's Attorney, updated the Board on the in-house cost collection of unpaid fines over the last three years. His office has increased the amount collected every year, from \$70,000 collected the first year, \$122,000 the second, and \$162,000 the third year. These amounts represent the county's share of the money collected. Mr. Showalter also updated the Board on the Victim Witness program housed in the Commonwealth's Attorney's office. He requested the Board consider providing \$6,000 to increase the salary of one Victim Witness Grant position.

Mr. Showalter at this time announced his resignation as Commonwealth's Attorney for Montgomery County effective March 31, 2006. He has accepted a judgeship for the 27<sup>th</sup> District Circuit Court. He reported that Brad Finch, Assistant Commonwealth's Attorney, would serve as interim Commonwealth's Attorney until a special election is held. He is confident that Mr. Finch will do an upstanding job.

Brad Finch addressed the Board briefly about his upcoming position as the interim Commonwealth's Attorney and encouraged the Board to contact him at any time.

### **Riner Cannery – USDA Community Food Projects Competitive Grant**

Kelly Brennan updated the Board on the Riner Cannery Working Group's intentions to apply for a USDA Community Food Projects Competitive Grant. Due to time restraints, they decided to pursue a planning grant through the USDA Community Food Program instead. The grant funds up to \$25,000, requiring an equal local match. Funds provided by the County and in-kind services by Virginia Tech will qualify as the local match. The funding will be used to improve the Riner Cannery and promote its use. Mr. Brennan noted that they will still pursue the competitive grant next year. He thanked the Board for their support in keeping the cannery open in order to preserve the County's heritage and promote hands on learning.

### **EXTEND MEETING**

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously, the Board hereby extends the March 27, 2006 meeting to 12:00 a.m., Tuesday, March 27, 2006.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
John A. Muffo	None
James D. Politis	
Annette S. Perkins	
Mary W. Biggs	
Doug Marrs	
Gary D. Creed	
Steve L. Spradlin	

### **CONSENT AGENDA**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously, the Consent Agenda dated March 27, 2006 was approved.

The vote on the foregoing motion was as follows:

AYE

Annette S. Perkins  
James D. Politis  
John A. Muffo  
Gary D. Creed  
Doug Marrs  
Mary W. Biggs  
Steve L. Spradlin

NAY

None

**A-FY-06-83  
PARKS AND RECREATION  
RECOVERED COSTS**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2006, for the function and in the amount as follows:

700	Parks & Recreation	\$20,000
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The source of the funds for the foregoing appropriation is as follows:

Revenue Account

419108	Recovered Costs	\$20,000
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Said resolution appropriates funds for ballfield improvements from monies reimbursed by the New River Valley Soccer Association to the County.

**A-FY-06-84  
SHERIFF  
PROJECT LIFESAVER**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2006, for the function and in the amount as follows:

322	Sheriff – Grants	\$ 175
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The source of the funds for the foregoing appropriation is as follows:

<u>Revenue Account</u>		
424401	Project Lifesaver	\$ 175

Said resolution appropriates recovered costs for Project Lifesaver.

**A-FY-06-85**  
**SHERIFF**  
**RECOVERED COSTS**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2006, for the function and in the amount as follows:

310	Sheriff – State	\$1,224
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The source of the funds for the foregoing appropriation is as follows:

<u>Revenue Account</u>		
419108	Recovered Costs	\$1,224

Said resolution appropriates recovered costs associated with state reimbursements for Maryland, West Virginia, and North Carolina extraditions and restitution for vehicle damage.

**A-FY-06-86**  
**RSVP**  
**FUND RAISING**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2006, for the function and in the amount as follows:

520	Human Services	\$3,133
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The source of the funds for the foregoing appropriation is as follows:

<u>Revenue Account</u>		
419108	Recovered Costs	\$3,133

Said resolution appropriates donations and fundraising monies for use by RSVP.

**A-FY-06-87**  
**COMMONWEALTH'S ATTORNEY**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2006, for the function and in the amount as follows:

200	Commonwealth's Attorney	\$ 309
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The source of the funds for the foregoing appropriation is as follows:

<u>Revenue Account</u>		
419104	Confiscations	\$ 309

Said resolution appropriates funds that were confiscated by law enforcement for cases prosecuted by the Commonwealth's Attorney's Office.

**A-FY-06-88**  
**PUBLIC HEALTH**  
**TRANSFER FROM SPECIAL CONTINGENCIES**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that a transfer of appropriation is hereby authorized as follows:

<u>FROM:</u>		
960	Special Contingencies	(\$35,201)
<u>TO:</u>		
530	Public Health	\$35,201

Said resolution transfers appropriated funds from Special Contingencies to Public Health to cover the County's share of mandated costs under the public health statement of agreement with the State.

**R-FY-06-137**  
**RESOLUTION AUTHORIZING ADDITIONAL**  
**FUNDING FOR THE PURCHASE AND**  
**INSTALLATION OF LIGHTS**  
**AT WHITETHORNE BOAT LANDING**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

WHEREAS, The Board of Supervisors authorized funds to install two solar lights at the Whitethorne Boat Landing in the spring of 2005; and

WHEREAS, The lights did not provide sufficient light for the general public to use the boat ramp area at night and the users asked that the lights be replaced; and

WHEREAS, A representative at American Electric Power was contacted for a possible solution to the lighting problem at Whitethorne Boat Landing and advised that the county would need 3 HPS dusk-to-dawn lights; and

WHEREAS, It was estimated that railroad application fee, railroad permit and construction costs would be approximately \$11,000; and

WHEREAS, By resolution dated November 16, 2005 the Board of Supervisors authorized the purchase of 3 HPS dusk-to-dawn lights to be installed at the Whitethorne Boat Landing in an amount not to exceed \$11,000; and

WHEREAS, The County Administrator was authorized to choose the most cost effective way to purchase electrical service from American Electric Power whether it be a monthly charge of \$29.11 per light or the County assuming responsibility for maintaining the lights and paying for only kilowatt hour usage, with all costs being charged to the General Services Budget; and

WHEREAS, American Electric Power has obtained the necessary permits and has revised the estimated costs for permits and construction from \$11,000 to approximately \$13,106.

NOW, THEREFORE BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby amends its resolution dated November 16, 2005 and authorizes the purchase of 3 HPS dusk-to-dawn lights to be installed at the Whitethorne Boat Landing in an amount not to exceed a total of \$13,200.

**R-FY-06-138**  
**RENEWAL OF AGRICULTURAL AND**  
**FORESTAL DISTRICT – 14**  
**REFER TO AFD ADVISORY COMMITTEE AND**  
**PLANNING COMMISSION**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

WHEREAS, Agricultural and Forestal District-14 (Fishers View) encompassing 2 landowners and over 500 acres is scheduled to expire on December 31, 2006; and

WHEREAS, Section 15.2-4311 of the Code of Virginia and Section 2-152 of the Code of Montgomery provide for the orderly review and renewal of such districts.

THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia does hereby direct the Advisory Committee on Agricultural and Forestal Districts and the Planning Commission to commence the review and renewal process for Agricultural and Forestal District-14.

**R-FY-06-139**  
**VACATION OF PUBLIC UTILITY EASEMENT**  
**BETWEEN LOTS 4 AND 5**  
**BRUSH MOUNTAIN ESTATES**  
**SUBDIVISION PHASE II**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

WHEREAS, The Boundary Line Vacation Plat of Lots 4 and 5 of Brush Mountain Estates, Phase II requests the vacation of a 20' public utility easement on behalf of the landowners, Cornice, Inc.; and

WHEREAS, Section 15.2-2270 of the Code of Virginia, as amended, permits the Board of Supervisors to vacate public utility easements upon request of the landowners involved.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia does hereby approve the Boundary Line Vacation Plat of Lots 4 and 5 of Brush Mountain Estates, Phase II (Balzer and Associates, Inc. Job No. B0500042.00 dated March 6, 2006) for Tax Parcels Nos. 15-3-4 and 15-3-5 (Acct ID# 034457 and 034458) in the Mt. Tabor Magisterial District.

FURTHER, The Subdivision Agent is hereby authorized to sign said plat for recordation.



**OLD BUSINESS**

**R-FY-06-140  
REMOVE FROM THE TABLE  
STRATFORD GROUP INC.  
REZONING REQUEST**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that the Stratford Group, Inc. rezoning request to rezone 21.9 acres from Agriculture (A-1) to Residential (R-1), located on the north side of Prices Fork Road (State Rte 685) and to the east of Stratford View Drive and is identified as Tax Parcel Nos. 52-A-16, 18, 22 (Acct ID # 013794) in the Prices Fork Magisterial District is hereby **removed from the table**.

The vote on the foregoing resolution was as follows:

AYE

James D. Politis  
John A. Muffo  
Gary D. Creed  
Doug Marrs  
Mary W. Biggs  
Annette S. Perkins  
Steve L. Spradlin

NAY

None

**ORD-FY-06-22  
ORDINANCE AMENDING THE ZONING  
CLASSIFICATION OF APPROXIMATELY 21.9 ACRES  
FROM AGRICULTURE (A-1) TO RESIDENTIAL (R-1)  
STRATFORD GROUP, INC.**

On a motion by Mary W. Biggs, seconded by John A. Muffo and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of Montgomery County, Virginia that it hereby finds that the proposed rezoning is in compliance with the Comprehensive Plan and meets the requirement for public necessity, convenience, general welfare and good zoning practice, and therefore the zoning classification of that certain tracts or parcels of land consisting of 21.9 acre tract of land is hereby amended and rezoned from the zoning classification of Agriculture (A-1) to Residential (R-1) with the following proffered conditions:

1. Walkway or pedestrian paths through the common area will connect to the two new cul-de-sacs. A walkway or pedestrian path will be constructed from Future Street B to Prices Fork Road. Walkway or pedestrian paths shall

consist of a six foot wide, four inch thick, fine graded stone pathway. Construction of the walkway or pedestrian paths will be completed prior to completion of roadway in area proposed for rezoning (02/03/06).

2. Easements for placements of possible future sanitary sewer and possible sanitary sewer pump station will be provided on the subdivision plat. (02/03/06)
3. Provide public water mains and water service to all lots in Phase III. (02/03/06)
4. Existing pond in center of Phase III will remain as an aesthetic feature and may be improved to function also as a stormwater management facility. (02/03/06)
5. Stafford View Drive through Phases I and II of Sterling Manor will be accepted into the VDOT maintenance program prior to beginning construction of Phase III. (02/23/06)
6. Walkway or pedestrian path from Future Street B to Prices Fork Road will be constructed prior to completion of roadway in area proposed for rezoning to a width and depth of stone that will accommodate one-way vehicle access for emergency vehicles and residents of subdivision during an emergency event. This access road shall be approved by the County Engineer and Emergency Services Coordinator prior to the approval of the final subdivision plat for Phase 3B to ensure suitability for emergency vehicles. (3/23/06)

This action was commenced upon the application of Stratford Group, Inc. (Agent: Roberts Engineering).

The property is located on the north side of Prices Fork Road (SR 685) and to the east of Stratford View Drive and is identified as Tax Parcel Nos. 52-A-16, 18, 22 (Acct ID # 013794) in the Prices Fork Magisterial District (District E). The property currently lies in an area designated as Prices Fork Village Expansion Area in the Comprehensive Plan.

This ordinance shall take effect upon adoption.

The vote on the foregoing ordinance was as follows:

AYE  
John A. Muffo  
Gary D. Creed  
Doug Marrs  
Mary W. Biggs  
Annette S. Perkins  
James D. Politis  
Steve L. Spradlin

NAY  
None

**NEW BUSINESS**

**R-FY-06-141  
VIRGINIA JUVENILE COMMUNITY  
CRIME CONTROL ACT**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

WHEREAS, Montgomery County is eligible to receive funds through the Virginia Juvenile Community Crime Control Act (VJCCCA), to be used for establishing special, community-based programs for juveniles whose behaviors have been brought to the attention of the Court; and

WHEREAS, By Board resolution dated July 2002, the Board of Supervisors agreed to a joint VJCCCA plan with Floyd County due to state reductions of the VJCCCA, with Montgomery County acting as fiscal agent; and

WHEREAS, Montgomery County wishes to continue to participate in the VJCCCA program.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of the County of Montgomery, Virginia hereby authorizes the County Administrator to submit a plan for the use of funds through the Virginia Juvenile Community Crime Control Act.

BE IT FURTHER RESOLVED, That Montgomery County will continue a joint plan with Floyd County, and that the Montgomery County Office on Youth will administer the plan, manage the services and evaluate the outcomes.

The vote on the foregoing resolution was as follows:

**AYE**

Gary D. Creed

Doug Marrs

Mary W. Biggs

Annette S. Perkins

James D. Politis

John A. Muffo

Steve L. Spradlin

**NAY**

None

**R-FY-06-142**  
**COMMONWEALTH'S ATTORNEY**  
**VICTIM WITNESS GRANT**

On a motion by James D. Politis, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, The Victim Witness Program is administered by the Commonwealth's Attorney; and

WHEREAS, The Victim Witness Grant totals \$134,195 and covers the cost of three positions and operations for the program; and

WHEREAS, 95% of the grant funds cover personnel costs, and as salaries and benefits increase annually, grant monies are not projected to increase proportionately; and

WHEREAS, The Commonwealth's Attorney generates revenue from the collection of fines and fees through his office which reduce the general fund dollars needed to support this office; and

WHEREAS, The Commonwealth's Attorney requests the use of a portion of the fee revenue generated by his office to offset future costs of the Victim Witness program not covered through the Victim Witness Grant funding.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that the Board of Supervisors approves the use of the fee revenue generated through the Commonwealth's Attorney's office to supplement the Victim Witness grant funding up to a maximum of 10% of the total grant award to cover program costs including personnel and/or operations.

The vote on the foregoing resolution was as follows:

AYE

Doug Marrs  
Mary W. Biggs  
Annette S. Perkins  
James D. Politis  
John A. Muffo  
Gary D. Creed  
Steve L. Spradlin

NAY

### **ADVERTISED TAX RATE**

Supervisor Creed made a motion to set the advertised real estate tax rate at 71¢, a 4 cent tax increase. The motion died due to lack of a second.

#### **R-FY-06-143 ADVERTISE PROPOSED REAL ESTATE TAX RATE**

On a motion by James D. Politis, seconded by Mary W. Biggs and carried,

BE IT RESOLVED, The Board of Supervisors of the County of Montgomery, Virginia hereby authorizes the County Administrator to advertise the proposed real estate tax rate at **74 ¢** per \$100 of the assessed valuation of real estate based on 100% of fair market value.

The vote on the resolution was as follows:

#### **AYE**

Annette S. Perkins  
James D. Politis  
John A. Muffo  
Mary W. Biggs

#### **NAY**

Gary D. Creed  
Doug Marrs  
Steve L. Spradlin

#### **R-FY-06-144 RESOLUTION SCHEDULING THE PUBLIC HEARING ON THE PROPOSED FY2006-2007 BUDGET AND ADVERTISED TAX RATE**

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of the County of Montgomery, Virginia hereby schedules a public hearing for Monday, April 10, 2006 at 7:30 p.m., or as soon thereafter, on the Proposed FY 2006-2007 Budget.

BE IT FURTHER RESOLVED, The Board of Supervisors hereby schedules a public hearing for Monday, April 10, 2006 at 8:00 p.m., or as soon thereafter, on the advertised tax rate.

The vote on the foregoing resolution was as follows:

AYE

John A. Muffo  
Gary D. Creed  
Doug Marrs  
Mary W. Biggs  
Annette S. Perkins  
James D. Politis  
Steve L. Spradlin

NAY

None

**R-FY-06-145  
RESOLUTION REQUESTING  
THE COMMONWEALTH TRANSPORTATION BOARD  
TO TAKE THE NECESSARY STEPS TO TRANSFER  
SEVEN MILE TREE ROAD, F-059,  
FROM THE INTERSTATE SYSTEM  
TO THE SECONDARY SYSTEM**

On a motion by Mary W. Biggs, seconded by Gary D. Creed and carried unanimously,

WHEREAS, The highway described below is part of the Interstate System of State Highways; and

WHEREAS, This Board believes that this facility complies with the criteria of the Commonwealth Transportation Board for transfer from the interstate system of state highways to the secondary system of state highways; and

WHEREAS, A transfer of this facility to the secondary system of state highways is desired to allow Montgomery County the flexibility of improving this road through the secondary road funds and/or the revenue sharing program.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of the County of Montgomery, Virginia hereby requests the Commonwealth Transportation Board to take the necessary steps to transfer all of Seven Mile Tree Road, F-059, from the intersection of Mud Pike (SR 666) to a dead end, a length of 1.37 miles to the secondary system of state highways, pursuant to Section 33.1-53, Code of Virginia; and adopt as a revenue sharing project and transfer funds from UPC No. 79342 to this new project in the amount of \$50,000 x 2 (\$100,000).

BE IT FURTHER RESOLVED, That a certified copy of this resolution be forwarded to the Residency Administrator for the Virginia Department of Transportation.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
Gary D. Creed	None
Doug Marrs	
Mary W. Biggs	
Annette S. Perkins	
John A. Muffo	
James D. Politis	
Steve L. Spradlin	

**R-FY-06-131  
APPOINTMENT  
ADJUSTMENT AND APPEALS BOARD**

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints **Allen F. Wagner** to the **Adjustment and Appeals Board** effective March 28, 2006 and expiring March 27, 2010.

The vote on the foregoing resolution was as follows:

<u>AYES</u>	<u>NAYS</u>
Mary W. Biggs	None
James D. Politis	
John A. Muffo	
Annette S. Perkins	
Gary D. Creed	
Doug Marrs	
Steve L. Spradlin	

**R-FY-06-132  
APPOINTMENT  
COMMUNITY POLICY AND MANAGEMENT TEAM  
(CPMT)**

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints **Roxana Hartmann** as **Parent Representative** to the **Community Policy and Management Team (CPMT)** effective March 28, 2006 and expiring March 27, 2008.

The vote on the foregoing resolution was as follows:

AYES

Mary W. Biggs  
James D. Politis  
John A. Muffo  
Annette S. Perkins  
Gary D. Creed  
Doug Marrs  
Steve L. Spradlin

NAYS

None

**R-FY-06-133  
APPOINTMENT  
MONTGOMERY REGIONAL  
ECONOMIC DEVELOPMENT COMMISSION**

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby reappoints **Joe W. Meredith** to the **Montgomery Regional Economic Development Commission** effective March 28, 2006 and expiring March 27, 2009.

The vote on the foregoing resolution was as follows:

AYES

Mary W. Biggs  
James D. Politis  
John A. Muffo  
Annette S. Perkins  
Gary D. Creed  
Doug Marrs  
Steve L. Spradlin

NAYS

None

**R-FY-06-134  
APPOINTMENT  
NEW RIVER VALLEY  
DEVELOPMENT CORPORATION**

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints **T. W. "Jay" Johnson** to the New River Valley Development Corporation effective March 28, 2006.



The vote on the foregoing resolution was as follows:

AYES

Mary W. Biggs  
James D. Politis  
John A. Muffo  
Annette S. Perkins  
Gary D. Creed  
Doug Marrs  
Steve L. Spradlin

NAYS

None

**R-FY-06-135  
APPOINTMENT  
PARKS AND RECREATION  
COMMISSION**

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints **Dave Dannenberg**, who resides in **District F**, to **the Parks and Recreation Commission** effective March 28, 2006 and expiring March 27, 2009.

The vote on the foregoing resolution was as follows:

AYES

Mary W. Biggs  
James D. Politis  
John A. Muffo  
Annette S. Perkins  
Gary D. Creed  
Doug Marrs  
Steve L. Spradlin

NAYS

None

**R-FY-06-136  
APPOINTMENT  
PARKS AND RECREATION  
COMMISSION**

On a motion by Mary W. Biggs, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints **Mike Rosenzweig**, who resides in **District G**, to **the Parks and Recreation Commission** effective March 28, 2006 and expiring March 27, 2009.

The vote on the foregoing resolution was as follows:

AYES

Mary W. Biggs  
James D. Politis  
John A. Muffo  
Annette S. Perkins  
Gary D. Creed  
Doug Marrs  
Steve L. Spradlin

NAYS

None

**R-FY-06-146  
RESOLUTION EXPRESSING MONTGOMERY COUNTY'S  
OPPOSITION TO THE PROPOSAL TO SELL 390 ACRES  
OF NATIONAL FOREST PROPERTY  
LOCATED IN MONTGOMERY COUNTY**

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, The United States Forest Service has proposed to sell 5,717 acres of forest land in Virginia to raise funds for local schools and roads; and

WHEREAS, When Congress authorized the purchase of land for the creation of the George Washington and Jefferson National Forests it provided flood protection, clean water, timber, recreation, wildlife habitat, and scenic viewsheds for urbanizing areas like Montgomery County; and

WHEREAS, This proposal would reverse decades of hard work to protect through public stewardship and management the vulnerable ridgelines and mountainsides, and would eliminate public lands which supply drinking water, clean air, wildlife and plant habitat, recreation and other uses; and

WHEREAS, 390 acres of land located in Montgomery County is included in this proposed sale; and

WHEREAS, The proceeds from the proposed sale of this property would not benefit Montgomery County.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia expresses their opposition to the proposal by the United States Forest Service to sell the 390 acres of land located in Montgomery County.

BE IT FURTHER RESOLVED, That the sale and development of this property could potentially create soil erosion, soil loss, water runoff, flooding and loss of forested lands.

BE IT FURTHER RESOLVED, That the Clerk to the Board of Supervisors is directed to send a copy of this resolution to Congressman Rick Boucher, Senator John Warner and Senator George Allen.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
Doug Marrs	None
Mary W. Biggs	
Annette S. Perkins	
James D. Politis	
Gary D. Creed	
John A. Muffo	
Steve L. Spradlin	

## **COUNTY ATTORNEY'S REPORT**

### **Auction – Sale of Delinquent Real Estate**

The auction to sell parcels of real estate due to delinquent taxes is scheduled for April 7, 2006 at the Government Center. A total of fourteen parcels will be sold.

## **ADJOURNMENT**

On a motion by Annette S. Perkins, seconded by James D. Politis and carried unanimously, the Board adjourned to Monday, April 10, 2006 at 6:00 p.m.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
Mary W. Biggs	None
Annette S. Perkins	
James D. Politis	
Gary D. Creed	
John A. Muffo	
Doug Marrs	
Steve L. Spradlin	

The meeting adjourned at 12:00 a.m. Tuesday, March 28, 2006.

APPROVED: Steve Spradlin  
Chair

ATTEST: B. Clayton Goodman, III  
County Administrator